

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAVIER LEWIS,

1:20-cv-03133

Plaintiff,

*-against-*

**ANSWER**

NATIONAL RAILROAD PASSENGER  
CORPORATION,

Defendant.

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Defendant NATIONAL RAILROAD PASSENGER CORPORATION (“AMTRAK”), by its attorneys, Landman Corsi Ballaine & Ford P.C., hereby answers the Complaint herein as follows:

**NATURE OF ACTION**

**FIRST:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “1” of the Complaint.

**JURISDICTION**

**SECOND:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “2” of the Complaint and refers all matters of law to the Court.

**PARTIES**

**THIRD:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “3” of the Complaint.

**FOURTH:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “4” of the Complaint, except admits that AMTRAK was established by an act of Congress.

**FACTS**

**FIFTH:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “5” of the Complaint, except admits that AMTRAK was a common carrier engaged in interstate commerce.

**SIXTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “6” of the Complaint.

**SEVENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “7” of the Complaint.

**EIGHTH:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “8” of the Complaint.

**NINTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “9” of the Complaint.

**TENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “10” of the Complaint.

**ELEVENTH:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “11” of the Complaint.

**TWELFTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “12” of the Complaint.

**THIRTEENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “13” of the Complaint.

**FOURTEENTH:** Defendant AMTRAK denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph “14” of the Complaint and refers all matters of law to the Court.

**FIFTEENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “15” of the Complaint.

**SIXTEENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “16” of the Complaint.

**SEVENTEENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “17” of the Complaint.

**EIGHTEENTH:** Defendant AMTRAK denies the truth of each and every allegation contained in paragraph “18” of the Complaint.

**FIRST AFFIRMATIVE DEFENSE**

**NINETEENTH:** Any injuries suffered by plaintiff were caused solely by his own negligence and not by any negligence of AMTRAK.

**SECOND AFFIRMATIVE DEFENSE**

**TWENTIETH:** Any injuries suffered by plaintiff were caused, in part, by his own negligence, and any recovery by plaintiff must be diminished in proportion to that part of his injuries attributable to his own negligence.

**THIRD AFFIRMATIVE DEFENSE**

**TWENTY-FIRST:** Any injuries suffered by plaintiff were not caused by a negligent act or omission of AMTRAK or any individuals acting under its direction or control.

**FOURTH AFFIRMATIVE DEFENSE**

**TWENTY-SECOND:** If plaintiff has sustained any damages in this matter, which this defendant denies, then AMTRAK’s liability, if any, shall be limited in accordance with Article 16 of the New York Civil Practice Law and Rules.

**FIFTH AFFIRMATIVE DEFENSE**

**TWENTY-THIRD:** Plaintiff failed to mitigate or otherwise act to lessen or reduce the damages alleged in the Verified Complaint.

**SIXTH AFFIRMATIVE DEFENSE**

**TWENTY-FOURTH:** Plaintiff failed to state a cause of action upon which relief may be granted.

**SEVENTH AFFIRMATIVE DEFENSE**

**TWENTY-FIFTH:** This Court lacks personal jurisdiction over defendant based upon insufficient service of process.

**WHEREFORE,** defendant AMTRAK demands judgment dismissing the Complaint herein, together with its costs and disbursements, and such other and further relief as this Court deems appropriate.

Dated: New York, New York  
April 24, 2020

Yours, etc.,

LANDMAN CORSI BALLAINE & FORD P.C.

By: Ronald E. Joseph  
Ronald E. Joseph  
Attorneys for Defendant  
NATIONAL RAILROAD PASSENGER  
CORPORATION  
120 Broadway 13<sup>th</sup> Floor  
New York, New York 10271  
(212) 238-4800

TO: George J. Cahill, Jr., Esq.  
CAHILL & PERRY, P.C.  
43 Trumbull Street  
New Haven, Connecticut 06510  
(203) 777-1000